

107TH CONGRESS
1ST SESSION

H. R. 2388

To establish the criteria and mechanism for the designation and support
of national heritage areas.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2001

Mr. HEFLEY introduced the following bill; which was referred to the
Committee on Resources

A BILL

To establish the criteria and mechanism for the designation
and support of national heritage areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “National Heritage Areas Policy Act of 2001”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

Sec. 3. Definitions.

Sec. 4. Recommendation of designation of national heritage areas.

Sec. 5. Requirements applicable to feasibility studies.

Sec. 6. Grants to support designated national heritage areas.

Sec. 7. Technical assistance to the local coordinating entities.

Sec. 8. Management plans.
Sec. 9. Termination of designation.
Sec. 10. Private property protection.
Sec. 11. Relationship to other Federal programs.
Sec. 12. Savings provisions.
Sec. 13. Funding provisions.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are the following:

3 (1) To provide for recognition of areas in the
4 United States containing natural, historic, and cul-
5 tural resources and recreational and educational op-
6 portunities that are geographically assembled and
7 thematically related as areas that provide unique
8 frameworks for understanding the great and diverse
9 character of the United States and the development
10 of communities and their surroundings.

11 (2) To encourage State and local governments,
12 nonprofit organizations, and the private sector, or
13 combinations thereof, to conserve and manage the
14 resources and opportunities in these areas.

15 (3) To encourage within these areas a broad
16 range of economic opportunities to enhance the qual-
17 ity of life for present and future generations, con-
18 sistent with existing State, local, and Federal land
19 use laws and authorities.

20 (4) To establish the criteria and mechanism for
21 the designation of certain of these areas as national
22 heritage areas.

1 (5) To describe the extent of Federal respon-
2 sibilities and duties in regard to national heritage
3 areas.

4 **SEC. 3. DEFINITIONS.**

5 In this Act:

6 (1) FEASIBILITY STUDY.—The term “feasibility
7 study” means a study conducted by the Secretary,
8 or conducted by one or more others and approved by
9 the Secretary, regarding the feasibility of desig-
10 nating any area as a national heritage area.

11 (2) LOCAL COORDINATING ENTITY.—The term
12 “local coordinating entity” means, with respect to a
13 national heritage area, an entity agreed to by a pre-
14 ponderance of the units of local government within
15 the boundaries of a national heritage area and des-
16 ignated by the Secretary in consultation with the
17 chief executive officer of each State in which the na-
18 tional heritage area is located that agrees to perform
19 the duties of a local coordinating committee under
20 this Act.

21 (3) NATIONAL HERITAGE AREA.—The term
22 “national heritage area” means an area or corridor
23 designated by an Act of Congress as an area where
24 natural, cultural, historic, and recreational resources
25 combine to form a cohesive, nationally distinctive

1 landscape arising from patterns of human activity
2 shaped by geography.

3 (4) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (5) STATE.—The term “State” includes the
6 District of Columbia, Guam, the Virgin Islands,
7 American Samoa, the Commonwealth of Puerto
8 Rico, and the Commonwealth of the Northern Mar-
9 iana Islands.

10 (6) UNIT OF GOVERNMENT.—The term “unit of
11 government” means the government of a State, a
12 political subdivision of a State, or an Indian tribe.

13 **SEC. 4. RECOMMENDATION OF DESIGNATION OF NATIONAL**
14 **HERITAGE AREAS.**

15 (a) CONDITIONS FOR DESIGNATION.—The Secretary
16 may recommend an area for designation as a national her-
17 itage area only after—

18 (1) the Secretary conducts or approves a feasi-
19 bility study for the area in accordance with section
20 5;

21 (2) the study concludes that the area is appro-
22 priate for designation as a national heritage area;
23 and

1 (3) the Secretary, in accordance with section 8,
2 approves a management plan for the area developed
3 by the local coordinating entity for the area.

4 (b) PRIORITIZATION.—The Secretary shall annually
5 submit to the Congress a prioritization of areas for the
6 conduct of feasibility studies under section 5 and consider-
7 ation for designation as national heritage areas, based on
8 information received from the chief executive officers of
9 States in which such national heritage areas would be lo-
10 cated.

11 **SEC. 5. REQUIREMENTS APPLICABLE TO FEASIBILITY**
12 **STUDIES.**

13 (a) IN GENERAL.—The Secretary may conduct a
14 study regarding the feasibility of designating any area as
15 a national heritage area or approve such a study con-
16 ducted by another person, only in accordance with this
17 section.

18 (b) FUNDING FOR STUDY.—The costs paid by the
19 Federal Government to conduct a feasibility study shall
20 not exceed 50 percent of the total costs of conducting the
21 study. The Secretary may conduct the feasibility study
22 only if the remaining share of such costs is provided from
23 non-Federal funds, services, or materials, or a combina-
24 tion thereof.

1 (c) STUDY PROCESS AND CONTENT.—Each feasi-
2 bility study—

3 (1) shall include sufficient information to deter-
4 mine whether an area meets the criteria specified in
5 subsection (d);

6 (2) shall be prepared with public participation
7 and local government involvement; and

8 (3) shall include—

9 (A) a description of the natural, historic,
10 and cultural resources and recreational and
11 educational opportunities presented by the area,
12 including an assessment of the quality and in-
13 tegrity of, the availability of public access to,
14 and the themes represented by such resources
15 and opportunities;

16 (B) an assessment of the interest of, and
17 impact of possible designation upon, potential
18 partners, units of government, nonprofit organi-
19 zations, and other private entities;

20 (C) a description of the boundaries and
21 conceptual framework for the proposed national
22 heritage area, if the study concludes that all or
23 a portion of an area is appropriate for designa-
24 tion as a national heritage area; and

1 (D) identification of a local coordinating
2 entity agreed to by a preponderance of the units
3 of local government within the boundaries of
4 the proposed area.

5 (d) CRITERIA FOR CONCLUDING AREA IS APPRO-
6 PRIATE FOR DESIGNATION.—

7 (1) IN GENERAL.—A feasibility study may con-
8 clude that an area is appropriate for designation as
9 a national heritage area only if the study finds that
10 the area meets each of the following criteria:

11 (A) ASSEMBLAGE OF RESOURCES.—The
12 area is a cohesive assemblage of natural, his-
13 toric, cultural, or recreational resources that—

14 (i) together represent distinctive as-
15 pects of American heritage worthy of rec-
16 ognition, conservation, interpretation, and
17 continuing use; and

18 (ii) are best managed through part-
19 nerships between private and public enti-
20 ties.

21 (B) TRADITIONS, CUSTOMS, BELIEFS, OR
22 FOLKLIFE.—The area reflects traditions, cus-
23 toms, beliefs, or folklife, or some combination
24 thereof, that are a valuable part of the history
25 of the United States.

1 (C) CONSERVATION OF NATURAL, CUL-
2 TURAL, OR HISTORIC FEATURES.—The area
3 provides opportunities to conserve natural, cul-
4 tural, or historic features, or some combination
5 thereof.

6 (D) RECREATIONAL AND EDUCATIONAL
7 OPPORTUNITIES.—The area provides out-
8 standing recreational and interpretive opportu-
9 nities.

10 (E) THEMES AND INTEGRITY OF RE-
11 SOURCES.—The area has an identifiable theme,
12 and resources important to the theme retain in-
13 tegrity capable of supporting interpretation.

14 (F) SUPPORT.—Residents, nonprofit orga-
15 nizations, other private entities, and govern-
16 ments throughout the area demonstrate support
17 for designation of the area as a national herit-
18 age area and for management of the area as
19 appropriate for such designation.

20 (G) LOCAL GOVERNMENT ENDORSE-
21 MENT.—Letters of support for the designation
22 of the area as a national heritage area have
23 been provided by participating units of local
24 government within the proposed boundaries of
25 the area.

1 (2) DIVERSE AND NONCONTIGUOUS RE-
2 SOURCES.—Notwithstanding paragraph (1)(A), a
3 heritage area may include diverse and noncontiguous
4 resources and active communities.

5 (e) COMMENTS OF STATE CHIEF EXECUTIVE OFFI-
6 CER.—Before submitting any feasibility study to the Con-
7 gress regarding a proposed national heritage area, the
8 Secretary shall solicit comments from the chief executive
9 officer of each State in which the national heritage area
10 is proposed to be located. The Secretary shall include in
11 the study any comments the Secretary receives from the
12 chief executive officer.

13 (f) SUBMISSION OF FEASIBILITY STUDY.—Upon
14 completion or approval by the Secretary of a feasibility
15 study, the Secretary shall submit the study to the Com-
16 mittee on Resources of the House of Representatives and
17 the Committee on Energy and Natural Resources of the
18 Senate. The Secretary shall include with the study the rec-
19 ommendations of the Secretary with respect to the pro-
20 posed designation to which the study relates.

21 **SEC. 6. GRANTS TO SUPPORT DESIGNATED NATIONAL HER-**
22 **ITAGE AREAS.**

23 (a) AUTHORITY TO MAKE GRANTS.—

24 (1) IN GENERAL.—The Secretary may make
25 grants in accordance with this section to the local

1 coordinating entity for a national heritage area for
2 activities authorized by subsection (c).

3 (2) PRIORITIZATION OF GRANTS.—The Sec-
4 retary shall annually submit to the Congress a
5 prioritized list of projects for which grants are pro-
6 posed under this section for national heritage areas.
7 Each such list must be consistent with this Act and
8 based on information submitted by the chief execu-
9 tive officers of States in which national heritage
10 areas are located. In establishing each list, the Sec-
11 retary shall consider the relative degree to which
12 each proposed project meets the objectives of the
13 management plan for a national heritage area and
14 the extent to which the grant would leverage non-
15 Federal funds.

16 (b) ELIGIBILITY FOR GRANTS.—Grants may be made
17 under this section with respect to any national heritage
18 area designated under this Act only if the Secretary, in
19 consultation with the chief executive officer of the State
20 in which the area is located (or if the area is located in
21 more than one State, the chief executive officers of all such
22 States, acting together), has designated a local coordi-
23 nating entity for the area.

24 (c) AUTHORIZED USES OF GRANTS.—

1 (1) IN GENERAL.—Grants under this section
2 may be used by a local coordinating entity for—

3 (A) reports, studies, interpretive exhibits
4 and programs, historic preservation projects,
5 and other activities recommended in the man-
6 agement plan for the national heritage area;
7 and

8 (B) operational expenses of the local co-
9 ordinating entity incurred in the first 3 fiscal
10 years beginning after the date of the designa-
11 tion of the local coordinating entity.

12 (2) PROHIBITED USES OF GRANTS.—Grants
13 under this section may not be used for—

14 (A) the acquisition of real property or any
15 interest in real property; or

16 (B) any other activity not specifically au-
17 thorized by paragraph (1).

18 (d) LIMITATION ON COSTS PAID WITH GRANT.—The
19 amount of any grant under this section may not exceed
20 50 percent of the total cost of the activity for which the
21 grant is provided.

22 (e) APPLICABILITY OF RESTRICTIONS TO SUB-
23 GRANTS.—For purposes of subsection (c), any subgrant
24 made from funds received as a grant (or subgrant) under

1 this section shall be treated as a grant made under this
2 section.

3 (f) PROTECTION OF FEDERAL INVESTMENT.—The
4 Secretary shall require that each grant under this section
5 shall be subject to an agreement that conversion, use, or
6 disposal of the project assisted with the grant for purposes
7 contrary to the purposes for which the grant was made
8 shall result in a right of the United States to compensa-
9 tion from the beneficiary of the grant. Any such agree-
10 ment shall provide for a schedule for such compensation
11 based on the level of Federal investment and the antici-
12 pated useful life of the project.

13 (g) DURATION OF ELIGIBILITY FOR GRANTS.—

14 (1) TEN-YEAR ELIGIBILITY PERIOD.—Subject
15 to paragraphs (2) and (3), the Secretary may not
16 provide any grant under this section with respect to
17 a national heritage area for any period occurring
18 after the expiration of the 10-year period beginning
19 on the date on which the national heritage area is
20 designated.

21 (2) THREE-YEAR ELIGIBILITY FOR NEW AREAS
22 UNLESS MANAGEMENT PLAN SUBMITTED.—The Sec-
23 retary may not, with respect to a national heritage
24 area designated after the date of enactment of this
25 Act, provide any grant under this section after the

1 expiration of the 3-year period beginning on the date
2 of the designation of the local coordinating entity for
3 the area unless—

4 (A) the entity submits to the Secretary a
5 management plan for the area that the Sec-
6 retary determines has been endorsed by a pre-
7 ponderance of the units of the local government
8 within the boundaries of the national heritage
9 area; and

10 (B) the chief executive officer of each
11 State in which the national heritage area is lo-
12 cated, in consultation with the Secretary, ap-
13 proves the management plan.

14 (3) TREATMENT OF EXISTING AREAS.—The
15 Secretary may not provide any grant under this sec-
16 tion for a national heritage area designated before
17 the date of enactment of this Act, after the earlier
18 of the following:

19 (A) The last day on which the local coordi-
20 nating entity is eligible for Federal funding or
21 assistance under the statute designating the na-
22 tional heritage area.

23 (B) The expiration of the 10-year period
24 beginning on the date of the enactment of this
25 Act.

1 (h) LIMITATION OF GRANTS FOR EACH NATIONAL
2 HERITAGE AREA.—

3 (1) TOTAL GRANTS.—The total amount of
4 grants under this section with respect to each na-
5 tional heritage area may not exceed \$10,000,000.

6 (2) ANNUAL GRANTS.—The amount of grants
7 under this section for a fiscal year with respect to
8 each national heritage area may not exceed
9 \$1,000,000.

10 (3) PERIOD OF ASSISTANCE.—No grants may
11 be provided under this section with respect to each
12 national heritage area for a total of more than 10
13 fiscal years.

14 **SEC. 7. TECHNICAL ASSISTANCE TO LOCAL COORDINATING**
15 **ENTITIES.**

16 (a) IN GENERAL.—The Secretary may, upon request
17 and subject to the availability of appropriations, provide
18 to the local coordinating entity for a national heritage area
19 technical assistance for the following:

20 (1) The preparation of a management plan for
21 the area.

22 (2) The implementation of the plan.

23 (b) DURATION OF ELIGIBILITY FOR ASSISTANCE.—
24 The Secretary may not provide assistance under this sec-
25 tion with respect to a national heritage area after the date

1 on which the Secretary, under section 6(g), may not pro-
2 vide grants under section 6 with respect to the area.

3 **SEC. 8. MANAGEMENT PLANS.**

4 (a) IN GENERAL.—The local coordinating entity for
5 a national heritage area designated after the date of the
6 enactment of this Act shall prepare a management plan
7 for the area in accordance with this section. In preparing
8 the plan, the local coordinating entity shall perform each
9 of the following duties:

10 (1) MANAGEMENT PLAN.—Prepare and submit
11 a management plan, endorsed by each participating
12 unit of local government within the boundaries of
13 the national heritage area, to the chief executive offi-
14 cer of each State in which the area is located and
15 to the Secretary.

16 (2) COLLABORATION.—Collaborate with and
17 consider the interests of diverse units of government,
18 businesses, tourism officials, private property own-
19 ers, and nonprofit groups within the geographic area
20 of the national heritage area in developing and im-
21 plementing such management plan.

22 (3) PUBLIC INVOLVEMENT.—Ensure regular
23 public involvement, including public meetings at
24 least annually, regarding the implementation of the
25 management plan for the area.

1 (4) RECORDS FOR AUDITS.—Make available to
2 the Secretary for audit, for any year in which Fed-
3 eral funds have been received under this Act, all
4 records pertaining to the expenditure of such funds
5 and any matching funds, and require, for all agree-
6 ments authorizing expenditure of Federal funds by
7 other organizations, that the receiving organizations
8 make available to the Secretary for audit all records
9 pertaining to the expenditure of such funds.

10 (b) CONTENTS OF MANAGEMENT PLAN.—The man-
11 agement plan prepared for a national heritage area shall—

12 (1) present a comprehensive program for the
13 conservation, funding, management, and develop-
14 ment of the national heritage area and of the histor-
15 ical, cultural, and natural resources and the rec-
16 reational and educational opportunities of the area,
17 in a manner consistent with the existing local, State,
18 and Federal land use laws and the economic viability
19 of the area;

20 (2) take into consideration State, county, and
21 local plans;

22 (3) involve residents, public agencies, and pri-
23 vate organizations working in the national heritage
24 area;

1 (4) specify and coordinate, as of the date of the
2 plan, existing and potential sources of technical and
3 financial assistance under this and other Federal
4 laws to protect, manage, and develop the national
5 heritage area; and

6 (5) include—

7 (A) actions to be undertaken by units of
8 government and private organizations to pro-
9 tect, conserve, and interpret the resources of
10 the heritage area;

11 (B) an inventory of the resources con-
12 tained in the national heritage area, including a
13 list of any property in the national heritage
14 area that is related to the themes of the na-
15 tional heritage area and that is found to merit
16 preservation, restoration, management, develop-
17 ment, or maintenance because of its natural,
18 cultural, historical, or recreational significance;

19 (C) policies for resource management with
20 appropriate land and water management tech-
21 niques, including the development of intergov-
22 ernmental cooperative agreements, private sec-
23 tor agreements, or any combination thereof, to
24 protect the historical, cultural, recreational, and
25 natural resources of the heritage area in a man-

1 ner consistent with supporting appropriate and
2 economic viability;

3 (D) a program for implementation of the
4 management plan by State and local govern-
5 ments and the designated local coordinating en-
6 tity;

7 (E) an analysis of ways in which local,
8 State, and Federal programs may best be co-
9 ordinated to promote the purposes of this Act;
10 and

11 (F) a business plan that describes in detail
12 the role, operation, financing, and functions of
13 the local coordinating entity and of each activ-
14 ity included in the recommendations contained
15 in the management plan.

16 (c) PUBLIC NOTICE.—To satisfy the requirements of
17 subsection (a)(3), the local coordinating entity shall place
18 a notice of each of its public meetings in a newspaper of
19 general circulation in the national heritage area and shall
20 make the minutes of the meeting available to the public.

21 (d) APPROVAL OF THE PLAN.—

22 (1) FINDINGS REQUIRED.—The Secretary may
23 approve the management plan for a national herit-
24 age area if the Secretary finds that the plan satisfies

1 the requirements of this Act and, if implemented,
2 would—

3 (A) adequately protect, conserve, or adapt-
4 ively reuse the significant historical, cultural,
5 natural, and recreational resources of the herit-
6 age area; and

7 (B) consistent with such protection, pro-
8 vide outdoor recreational opportunities and eco-
9 nomic activities within the area.

10 (2) CONSIDERATIONS.—In determining whether
11 or not to approve the plan, the Secretary shall con-
12 sider whether—

13 (A) the participating units of local govern-
14 ment within the boundaries of the national her-
15 itage area have endorsed the management plan;

16 (B) the local coordinating entity has af-
17 forded adequate opportunity, including public
18 hearings, for public and governmental involve-
19 ment in the preparation of the plan; and

20 (C) the Secretary has received adequate
21 assurances from the chief executive officer of
22 each State in which the national heritage area
23 is located and appropriate State officials,
24 that—

- 1 (i) the implementation program in-
2 cluded in the plan will be initiated within
3 the time periods agreed to in the plan; and
4 (ii) such program will ensure effective
5 implementation of State and local aspects
6 of the plan.

7 **SEC. 9. TERMINATION OF DESIGNATION.**

8 A designation of an area as a national heritage area
9 shall terminate and have no force or effect on and after
10 any date on which the Secretary of the Interior determines
11 that—

12 (1) implementation of the management plan for
13 the area has failed to meet standards set forth in
14 the management plan; or

15 (2) a preponderance of the units of local gov-
16 ernment involved in implementing the management
17 plan for the area no longer support such designa-
18 tion.

19 **SEC. 10. PRIVATE PROPERTY PROTECTION.**

20 (a) ACCESS TO PRIVATE PROPERTY.—Nothing in
21 this Act shall be construed to require any private property
22 owner to permit public access (including Federal, State,
23 or local government access) to such private property.
24 Nothing in this Act shall be construed to modify any provi-

1 sion of Federal, State, or local law with regard to public
2 access to or use of private lands.

3 (b) LIABILITY.—Designation of a national heritage
4 area shall not be considered to create any liability, or to
5 have any effect on any liability under any other law, of
6 any private property owner with respect to any persons
7 injured on such private property.

8 (c) RECOGNITION OF AUTHORITY TO CONTROL
9 LAND USE.—Nothing in this Act shall be construed to
10 modify any authority of Federal, State, or local govern-
11 ments to regulate land use.

12 (d) PARTICIPATION OF PRIVATE PROPERTY OWNERS
13 IN NATIONAL HERITAGE AREAS.—Nothing in this Act
14 shall be construed to require the owner of any private
15 property located within the boundaries of a national herit-
16 age area to participate in or be associated with the na-
17 tional heritage area.

18 **SEC. 11. RELATIONSHIP TO OTHER FEDERAL PROGRAMS.**

19 (a) OTHER ASSISTANCE NOT AFFECTED.—This Act
20 does not affect the authority of any Federal official to pro-
21 vide technical or financial assistance under any other law.

22 (b) NOTIFICATION OF OTHER FEDERAL ACTIVI-
23 TIES.—The head of each Federal agency shall provide to
24 the Secretary and the local coordinating entity for a na-

1 tional heritage area advance notice of all activities which
2 may have an impact on the national heritage area.

3 **SEC. 12. SAVINGS PROVISIONS.**

4 (a) RULES, REGULATIONS, STANDARDS, AND PER-
5 MIT PROCESSES.—Except as provided in section 11(b),
6 nothing in this Act shall be construed to impose any envi-
7 ronmental, occupational, safety, or other rule, regulation,
8 standard, or permit process in a national heritage area
9 that is different from those that would be applicable if
10 the national heritage area had not been established.

11 (b) WATER AND WATER RIGHTS.—Nothing in this
12 Act shall be construed to authorize or imply the reserva-
13 tion or appropriation of water or water rights.

14 (c) NO DIMINISHMENT OF STATE AUTHORITY.—
15 Nothing in this Act shall be construed to diminish the au-
16 thority of the State containing any national heritage area
17 to manage fish and wildlife, including the regulation of
18 fishing and hunting within such an area.

19 **SEC. 13. FUNDING PROVISIONS.**

20 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to the Secretary for each
22 fiscal year for grants and technical assistance under sec-
23 tions 6 and 7, not more than \$10,000,000, to remain
24 available until expended.

1 (b) PROHIBITION ON FEDERAL ADMINISTRATIVE
2 FEES.—Funds may be appropriated under subsection (a)
3 only for direct transfer by the Secretary to a local coordi-
4 nating entity.

5 (c) INCLUSION IN LIMIT ON FUNDING UNDER THIS
6 SECTION.—For purposes of the dollar amount limitation
7 contained in subsection (a), all amounts appropriated to
8 the Secretary (acting through the National Park Service)
9 after the date of the enactment of this Act, under this
10 section or any other Act, shall be treated as appropriated
11 under such subsection.

12 (d) PROHIBITION ON USE OF FUNDS TO SUPPLE-
13 MENT NATIONAL PARK SYSTEM.—No funds authorized to
14 be appropriated under this section may be used to supple-
15 ment funding or programs at any unit of the National
16 Park System.

17 (e) USE OF FEDERAL FUNDS FROM OTHER
18 SOURCES.—Nothing in this Act shall preclude a local co-
19 ordinating entity from using Federal funds available under
20 other Federal laws for the purposes for which those funds
21 were authorized.

○